

Message Text

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ACTION DLOS-06

INFO OCT-01 IO-13 ISO-00 AF-08 ARA-06 EA-07 EUR-12 NEA-10

OIC-02 AGRE-00 FEA-01 ACDA-07 AGR-05 AID-05 CEA-01

CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DODE-00 DOTE-00

EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00 H-02 INR-07

INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01 OES-06

OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06 SAL-01

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C O N F I D E N T I A L USUN 3598

FROM LOS DEL

E.O. 11652: GDS

TAGS: LOS

SUBJECT: LAW OF THE SEA: COMMITTEE I DEBATE ON SEPTEMBER 1-3

SUMMARY: DISCUSSION IN COMMITTEE I NEGOTIATION GROUP
SEPTEMBER 1-3 HAS FOCUSED ON DEFINITION OF "PARALLEL SYSTEM"
AND WHETHER THIS CONCEPT, HOWEVER DEFINED, IS ACCEPTABLE
TO A MAJORITY OF STATES IN THE COMMITTEE. THERE HAS ALSO
BEEN DEBATE ON A LIST (CONTAINED SEPTTEL) PREPARED BY CO-CHAIRMEN,
OF CRITERIA AND CONDITIONS WHICH APPLICANTS MUST MEET. DISCUSSIONS
HAVE NOT NARROWED GAP BETWEEN G-77 AND MAJOR INDUSTRIALIZED
STATES. DESPITE LACK OF PROGRESS ON SYSTEM OF EXPLOITA-
TION, COMMITTEE I WILL PROBABLY MOVE TO ASSEMBLY/COUNCIL
ISSUE BY MIDDLE OF NEXT WEEK. END SUMMARY.

1. C-I NEGOTIATION GROUP ON SEPT 1 BEGANBY RETURNING,
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AT CO-CHAIRMAN JAGOTA'S SUGGESTION, TO A DISCUSSION OF

ARTICLE 22. US (RATINER) ASKED FOR A CLARIFICATION FROM THE GROUP OF 77 IF THEIR DRAFT ARTICLE 22 MEANT THAT THE AUTHORITY COULD REFUSE TO GRANT ACCESS TO STATES AND PRIVATE ENTITIES. SRI LANKA (PINTO), IRAQI, THAILAND, AND IRAN RESPONDED THAT THE AUTHORITY CLEARLY HAS THE DISCRETION NOT TO ENTER INTO CONTRACTS WITH STATES AND PRIVATE PARTIES IF IT SO DECIDED. THE NETHERLANDS, SPEAKING FOR THE EC, ATTACKED THE G-77 POSITION AS REPRESENTING THE SAME STANCE IT TOOK IN CARACAS WHILE THE EC AND OTHER INDUSTRIALIZED STATES HAD MADE MAJOR CONCESSIONS SINCE THE INITIAL CONFERENCE.

2. PINTO (SRI LANKA) THEN SHIFTED THE ENTIRE FOCUS OF THE DEBATE BY STATING THAT ONE OF THE ILL-DEFINED "SLOGANS" THAT DOMINATED COMMITTEE I WAS "PARALLELISM". THE G-77 SAYS IT CAN NEVER ACCEPT A PARALLEL SYSTEM. THE INDUSTRIALIZED STATES SAY THEY MUST HAVE SUCH A SYSTEM. NO PROGRESS IS POSSIBLE, PINTO SAID, UNTIL IT IS DETERMINED WHETHER THE GROUP OF 77 CAN IN FACT ACCEPT THE PARALLEL SYSTEM IN SOME FORM AND SUGGESTED THAT THE CHAIR UNDERTAKE TO FIND THIS OUT. PINTO SAID THAT IF THE PARALLEL SYSTEM WAS NOT ACCEPTABLE, CREATING A VIABLE ENTERPRISE WOULD NOT SOLVE THE PROBLEM. PINTO ALSO ASKED IF THOSE WHO ADVOCATED A PARALLEL SYSTEM COULD ACCEPT "A SECOND LINE THAT ENDS." (THE EVENTUAL END OF STATE ACCESS).

3. ONLY TUNISIA, AND TANZANIA, THE SPOKESMEN OF THE MOST RADICAL GROUP IN THE G-77 RESPONDED TO PINTO'S SUGGESTION. THEY SAID THEY ACCEPTED THE PARALLEL SYSTEM IF DEFINED IN TERMS OF THE G-77 TEXT, I.E. COMPLETE DISCRETIONARY CONTROL BY THE AUTHORITY OVER STATE ACCESS. TANZANIA CONCEDED THAT STATE AND PRIVATE ACCESS MIGHT BE NECESSARY TEMPORARILY TO BEGIN EXPLOITATION BUT EMPHASIZED THAT AUTHORITY MUST HAVE ABILITY TO END SUCH ACCESS WHEN IT WAS ABLE TO EXPLOIT ON ITS OWN.

4. THE US (RATINER) STATED THAT IT WAS INCORRECT TO CHARACTERIZE THE US AND OTHER MAJOR INDUSTRIALIZED STATES AS PROPONENTS OF THE PARALLEL SYSTEM. WE WERE, CONFIDENTIAL

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IN FACT, SUPPORTERS OF THE LICENSE SYSTEM AND HAD COME TO THE PARALLEL SYSTEM BY WAY OF COMPROMISE. RATINER THEN WENT ON TO URGE THAT GROUP SHIFT AWAY FROM TEARING DOWN STATE ACCESS AND INSTEAD FOCUS ON BUILDING UP ENTERPRISE HALF OF THE PARALLEL SYSTEM.

5. ON SEPT. 2 DISCUSSION CONTINUED. THE USSR EMPHASIZED THAT STATES WERE EMBODIMENT OF MANKIND AND THUS WERE

ENTITLED TO EXPLOIT THE SEABEDS, AND ATTACKED THE G-77 TEXT FOR ITS FAILURE TO ENSURE SUCH ACCESS. INDONESIA (JUSUF), THEN INTERVENED TO ATTACK PINTO'S SUGGESTION OF THE DAY BEFORE THAT THE G-77 BE POLLED ON THE ACCEPTABILITY OF THE PARALLEL SYSTEM. JUSUF SAID THAT THE G-77 WAS BOUND BY ITS TEXT AND, AS A DISCIPLINED GROUP, COULD NOT SUPPORT THE PARALLEL SYSTEM IN PUBLIC. JUSUF CONCEDED HOWEVER THAT THERE WAS STILL ROOM FOR COMPROMISE IN THE G-77 PROPOSALS AND SUGGESTED THAT THE PARALLEL SYSTEM COULD BE DISCUSSED WITHIN THE GROUP IF MEMBERS SO DESIRED.

6. AT PERU'S SUGGESTION THE DEBATE TURNED TO THE LONG AWAITED LIST PREPARED BY THE CO-CHAIRMAN ON THE CRITERIA AND CONDITIONS THAT APPLICANTS MUST MEET (SENT SEPT. 1). MEXICO, JAMAICA, EGYPT, AND OTHERS SUGGESTED ADDING TO THE LIST PROVISIONS ON THE PREEMINENCE OF THE ENTERPRISE, DISTRIBUTION OF PROFITS, FLAGS OF CONVENIENCE, LDC PARTICIPATION, AND PARTICULARLY TECHNOLOGY TRANSFER TO THE AUTHORITY. ON SEPT. 3 DISCUSSION OF THE LIST CONTINUED BUT ALMOST ALL INTERVENTIONS CENTERED ON THE ORGANIZATION AND NATURE OF THE LIST AND NOT THE APPROPRIATENESS OR MEANING OF INDIVIDUAL ITEMS. THE US (RATINER) STATED THAT THE LIST PREPARED BY THE CO-CHAIRMEN DID NOT RESPOND TO OUR REQUEST FOR THE OBJECTIVE CRITERIA BY WHICH THE AUTHORITY COULD DENY ACCESS. INSTEAD, THE LIST IS TOTALLY DISCRETIONARY. RATINER SUGGESTED THAT THE CHAIRMAN ATTEMPT AGAIN TO PROVIDE A LIST OF OBJECTIVE CRITERIA. PERU (DESOTO) AND TANZANIA RESPONDED THAT US REQUEST FOR A LIST OF OBJECTIVE CRITERIA WHICH IF MET, WOULD GUARANTEE ACCESS WAS IMPOSSIBLE SINCE THE AUTHORITY WOULD ALWAYS HAVE

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DISCRETION TO DENY ACCESS.

7. ON SEPT. 2 THE COMMITTEE I WORKSHOP CONSIDERED THE AGENDA FOR THE REMAINING TWO WEEKS OF THE SESSION. AFTER A LONG EXCHANGE THE CHAIR DECIDED THAT UNLESS THE NEGOTIATING GROUP BELIEVED THAT PROGRESS ON THE SYSTEM OF EXPLOITATION WARRANTED CONTINUED DISCUSSIONS ON THE SUBJECT THE COMMITTEE WOULD TAKE UP THE COUNCIL AND ASSEMBLY ON SEPT. 8.

8. COMMENT: THERE CONTINUES TO BE NO BASIC MOVEMENT IN COMMITTEE I. THE GENERAL ATMOSPHERE IS THAT THIS SESSION IS LOST AND THAT THE REMAINING WEEKS WILL NOT SHOW ANY PROGRESS.

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